

# Notice of Allowability

Application No.

08/910,115

Examiner

Cheryl Juska

Applicant(s)

BAYCHAR,

Art Unit

1771

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 05/05/06.
2. ☒ The allowed claim(s) is/are 1-4, 7, 17, 21-24, 45, 46, 52, 53, 89, 90 and 106-109.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 05/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

**CHERYL A. JUSKA**  
**PRIMARY EXAMINER**

Cheryl Juska  
Primary Examiner  
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### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. The application has been amended as follows:

**Please change the status identifiers of claims 45, 46, 52, 53, and 106-109 from "withdrawn" to "previously presented."**

1. (Previously Presented) A moisture transfer apparel to be worn by individuals engaged in activities that generate moisture comprising, on at least a portion of the apparel, a combination of layers comprising:

a first layer, closest to the individual, the first layer being an inner moisture transfer material;

a second layer, abutting the first layer, including an open cell foam material;

a third layer, abutting the second layer, including a nonwoven material; and

a fourth layer, abutting the third layer, the fourth layer being an outer moisture transfer material that is encapsulated for waterproofing,

wherein the combination of layers is breathable and enables moisture vapor to be transferred through the apparel from the first layer through the fourth layer so as to keep the individuals dry,

wherein at least one of the first through fourth layers has reversible enhanced thermal properties.

2. (Original) The moisture transfer apparel according to claim 1, wherein at least two of the first, second, third and fourth layers are attached to each other by lamination.

3. (Original) The moisture transfer apparel according to claim 1, wherein at least two of the first, second, third and fourth layers are attached to each other by mechanical bonding.

4. (Previously Presented) The moisture transfer apparel according to claim 1, wherein the fourth layer is laminated to the nonwoven of the third layer.

5-6. (Canceled)

7. (Previously Presented) A moisture transfer apparel to be worn by individuals engaged in activities that generate moisture comprising, on at least a portion of the apparel, a combination of layers comprising:

a first layer, closest to the individual, the first layer being an inner moisture transfer material;

a second layer, abutting the first layer, including an open cell foam material;

a third layer, abutting the second layer, including a nonwoven material; and

a fourth layer, abutting the third layer, the fourth layer being an outer moisture transfer material that is selected from fabrics that are structurally knitted or woven to repel water,

wherein the combination of layers is breathable and enables moisture vapor to be transferred through the apparel from the first layer through the fourth layer so as to keep the individuals dry,

wherein at least one of the first through fourth layers has reversible enhanced thermal properties.

8-16. (Canceled)

17. (Previously Presented) The moisture transfer apparel according to claim 1, wherein the second layer and third layer are formed as an elastomeric composite having the nonwoven material combined with the open cell foam material in a single process.

18-20. (Canceled)

21. (Previously Presented) A moisture transfer apparel to be worn by individuals engaged in activities that generate moisture comprising, on at least a portion of the apparel, a combination of layers comprising;

a first layer, closest to the individual, the first layer being an inner moisture transfer material;

a second layer, abutting the first layer, including an open cell foam material;

a third layer, abutting the second layer, including a nonwoven material; and

a fourth layer, abutting the third layer, the fourth layer being an outer moisture transfer material that is encapsulated for waterproofing,

wherein the combination of layers is breathable and enables moisture vapor to be transferred through the apparel from the first layer through the fourth layer so as to keep the individuals dry,

wherein the second layer is treated with microencapsulation technology which can adjust to temperature changes.

22. (Previously Presented) A moisture transfer apparel to be worn by individuals engaged in activities that generate moisture comprising, on at least a portion of the apparel, a combination of layers comprising:

a first layer, closest to the individual, the first layer being an inner moisture transfer material;

a second layer, abutting the first layer, including an open cell foam material;

a third layer, abutting the second layer, including a nonwoven material; and

a fourth layer, abutting the third layer, the fourth layer being an outer moisture transfer material that is selected from fabrics that are structurally knitted or woven to repel water,

wherein the combination of layers is breathable and enables moisture vapor to be transferred through the apparel from the first layer through the fourth layer so as to keep the individuals dry,

wherein the second layer is treated with microencapsulation technology which can adjust to temperature changes.

23. (Previously Presented) The moisture transfer apparel according to claim 1, wherein the second layer has reversible enhanced thermal properties.

24. (Previously Presented) The moisture transfer apparel according to claim 7, wherein the second layer has reversible enhanced thermal properties.

25-44. (Canceled)

45. (Previously Presented) The moisture transfer apparel according to claim 1, wherein the outer moisture transfer material is selected from a group consisting of cotton and a cotton blend.

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46. (Previously Presented) The moisture transfer apparel according to claim 1, wherein the outer moisture transfer material comprises synthetic fibers.

47-51. (Canceled)

52. (Previously Presented) The moisture transfer apparel according to claim 1, further comprising a membrane, abutting the foam material, for providing either warmth or cooling.

53. (Previously Presented) The moisture transfer apparel according to claim 7, further comprising a membrane, abutting the foam material, for providing either warmth or cooling.

54-88. (Canceled)

89. (Previously Presented) The moisture transfer apparel according to claim 1, wherein a membrane is applied to the second layer so that it has reversible thermal enhanced properties.

90. (Previously Presented) The moisture transfer apparel according to claim 7, wherein a membrane is applied to the second layer so that it has reversible thermal enhanced properties.

91-105. (Canceled)

106. (Previously Presented) A moisture transfer apparel according to claim 1, wherein the second layer includes a breathable membrane.

107. (Previously Presented) A moisture transfer apparel according to claim 1, wherein the third layer includes a breathable membrane.

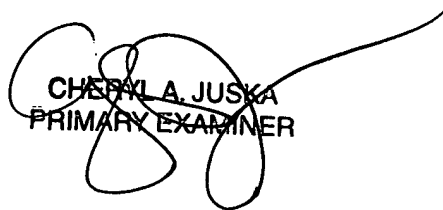
108. (Previously Presented) A moisture transfer apparel according to claim 1, wherein the second layer includes a thermal insulating material.

109. (Previously Presented) A moisture transfer apparel according to claim 1, wherein the third layer includes a thermal insulating material.

110-113. (Canceled)

***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
CHERYL A. JUSKA  
PRIMARY EXAMINER